

**CMS-3145-IFC-1 Fire Safety Requirements for Certain Health Care Facilities;
Alcohol-Based Hand Sanitizer Amendment**

Submitter : Cheryl A Walls

Date & Time: 03/25/2005

Organization : GA State Fire Marshal's Office

Category : State Government

Issue Areas/Comments

Issue

Placement Requirements

"The dispensers are installed in accordance with chapter 18.3.2.7 or chapter 19.3.2.7."

This information is noted throughout the entire document. However, chapters 18.3.2.7 and 19.3.2.7 of the 2000 edition of the LSC refer to rooftop heliports

**CMS-3145-IFC-2 Fire Safety Requirements for Certain Health Care Facilities;
Alcohol-Based Hand Sanitizer Amendment**

Submitter : Mrs. elizabeth harley

Date & Time: 03/28/2005

Organization : Medical University of SC Medical Center

Category : Nurse

Issue Areas/Comments

Issue

Location

As an Infection Control Practitioner, we are definitely convinced that placement outside of the patient's room will increase use of hand sanitizer and help decrease the risk of transmission of healthcare associated infections.

**CMS-3145-IFC-3 Fire Safety Requirements for Certain Health Care Facilities;
Alcohol-Based Hand Sanitizer Amendment**

Submitter : Mr. Kenneth Faulstich

Date & Time: 03/30/2005

Organization : US Department of Veterans Affairs

Category : Federal Government

Issue Areas/Comments

Issue

Location

See Attachment

CMS-3145-IFC-3-Attach-1.DOC

HHS; CMS; Fire Safety Requirements for Certain Health Care Facilities,
Amendment

CMS-3145-IFC

[Location]

Comments:

1. No nationally recognized consensus installation or maintenance code or standard is referenced in the regulations for the battery powered single station smoke alarms. NFPA (National Fire Protection Association) Standard No. 72, National Fire Alarm Code, has specific requirement governing the proper installation, test and maintenance of these devices. In addition, the term "smoke detectors" is used for these devices throughout the regulations but the proper terminology used in the fire protection community and in all national consensus codes and standards is "smoke alarms". A reference is made to NFPA 72 for "hard wired" type smoke detectors that are connected to a fire alarm system but no reference is made for the single station smoke alarms. There was no mention made of the acceptability of "hard wired" (that is AC powered) single station smoke alarms in lieu of battery powered.

Although no mentioned is made of battery powered smoke alarms with the 10 year battery, these devices are very common today and would not require annual battery replacement as suggested in the proposed final rules in the Federal Register.

Without referring to an installation standard, long term health care facilities might install these devices incorrectly. And without an installation standard to reference, Authorities Having Jurisdiction, including CMS, would not have criteria to judge the installation. There could be facilities that have AC powered single station smoke alarms in the patient sleeping rooms. And by referring to a term that is no longer the proper terminology for smoke alarms, confusion could be prevented.

A reference to NFPA 72 for the installation, testing and maintenance of smoke alarms should be provided in the regulations. Single station smoke alarms that are AC powered that are not wired into the fire alarm system should also be permitted as an exception. In addition, the term "smoke alarms" should be used in lieu of "smoke detectors" when addressing the use of battery powered single station smoke detectors.

2. Soliciting comments of the placement of smoke alarms in other spaces such as storage rooms, closets and office spaces was requested.

A higher level of risk would be the result of not requiring smoke alarms in these locations. However, the practicality of installing these devices in these locations is not appropriate. No other national consensus code or standard requires smoke alarms in these types of locations (including "public spaces" that the regulations require). I would recommend that the regulations not include these locations. By locating the smoke alarms in the patient sleeping rooms, the likelihood of a fire incident with significant hazardous outcomes will be reduced.

Kenneth Faulstich
Senior Safety and Fire Protection Engineer
US Department of Veterans Affairs
Washington, DC 20420
ken.faulstich@va.gov

**CMS-3145-IFC-4 Fire Safety Requirements for Certain Health Care Facilities;
Alcohol-Based Hand Sanitizer Amendment**

Submitter : Mr. Chris Summers

Date & Time: 04/08/2005

Organization : MUSC/OSHP

Category : State Government

Issue Areas/Comments

Issue

Placement Requirements

Please define and quantify adjacent as it relates to the installation of alcohol hand rub dispensers over or directly adjacent to an ignition source.

CMS-3145-IFC-4-Attach-1.DOC

Reference: CMS-3145-IFC

Please define and quantify adjacent as it relates to the installation of alcohol hand rub dispensers over or directly adjacent to an ignition source.

**CMS-3145-IFC-5 Fire Safety Requirements for Certain Health Care Facilities;
Alcohol-Based Hand Sanitizer Amendment**

Submitter : Mr. Lance Mendiola

Date & Time: 04/12/2005

Organization : Ivinson Memorial Hospital

Category : Health Care Provider/Association

Issue Areas/Comments

GENERAL

GENERAL

Issue

Exceptions

Please confirm the requirement for ABHR in conjunction with palm readers/time clocks. It is an electrical device but not an outlet/switch. Thanks!

**CMS-3145-IFC-7 Fire Safety Requirements for Certain Health Care Facilities;
Alcohol-Based Hand Sanitizer Amendment**

Submitter : Ms. Angela Upshur

Date & Time: 04/24/2005

Organization : BMA Camp Springs

Category : Individual

Issue Areas/Comments

Issue

Issue

Subpart B - Patient Safety, 494.60 Condition: Physical Environment

My comment is that the portion of the document should contain boundaries for the facility and the patient. Specifically, section 1 - Emergency preparedness (1) the dialysis facility should be required to institute training and orientation emergency preparedness to the staff and the patients within a certain timeframe. The wording in the document states that staff training must be provided at annually. There is no specification for the timeframe for patients to be trained. I would like to see some timelines added to this portion of the document.

Submitter :

Date: 04/27/2005

Organization :

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

See attachment

CMS-3145-IFC-8-Attach-1.PDF

Note: CMS did not receive an attachment to this document. This may have been due to improper submission by the commenter or it may have been a result of technical problems such as file format or system problems.

**CMS-3145-IFC-9 Fire Safety Requirements for Certain Health Care Facilities;
Alcohol-Based Hand Sanitizer Amendment**

Submitter : Ms. Pamela Fogle

Date & Time: 05/13/2005

Organization : Medical University of South Carolin

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

I feel CMS should come out with a stronger stance to override the ability of individual state fire marshals to ignore this amendment. The South Carolina fire marshall has sent a memo that negates this ruling (I realize this is the state's right), but is causing problems throughout the state when everyone (including their office) has the patient's best interest in mind.

**CMS-3145-IFC-10 Fire Safety Requirements for Certain Health Care Facilities;
Alcohol-Based Hand Sanitizer Amendment**

Submitter : Mr. Robert Solomon

Date & Time: 05/18/2005

Organization : National Fire Protection Association

Category : Other Association

Issue Areas/Comments

GENERAL

GENERAL

See Attachment

CMS-3145-IFC-10-Attach-1.DOC



National Fire Protection Association

1 Batterymarch Park, Quincy, MA 02169-7471
Phone: 617-770-3000 • Fax: 617-770-0700 • www.nfpa.org

May 18, 2005

Centers for Medicare and Medicaid Services
Department of Health and Human Services
ATTN: CMS-3145-IFC
P.O. Box 8018
Baltimore, MD 21244-8018

SUBJECT: RIN 0938-AN36
File Code CMS-3145-IFC

Thank you for the opportunity to submit comments on the interim/final rules concerning alcohol based hand rubs (ABHR) and nursing home fire safety. The comments from NFPA are shown in the enclosed document.

NFPA commends CMS for moving forward with these two initiatives (ABHRs and smoke detectors) at this point in time. The public will be the beneficiary of both actions.

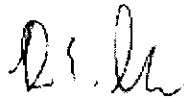
As a point of information, we also wanted to make CMS aware of two additional items. First, the ABHR criteria discussed in the interim/final rule and that was based on the Tentative Interim Amendments (TIA) to the NFPA Life Safety Code (NFPA 101) will be incorporated into the 2006 edition of the Life Safety Code. The ABHR rules will govern both healthcare (new and existing) as well as ambulatory healthcare (new and existing). Pending membership action (June 2005) and NFPA Standards Council issuance (July 2005), the provisions will appear in the new edition of NFPA 101 this September.

Second, the 2006 edition of the Code is on track to contain a provision to mandate automatic sprinkler protection of existing nursing homes. Although not an explicit subject of this interim/final rule, it is none the less a related provision.

CMS-3145-IFC
May 18, 2005
Page 2

Should you have any follow-up questions, please contact Mr. John Biechman in our Washington DC office at 202-488-4428.

Sincerely,

A handwritten signature in black ink, appearing to read "R. E. Solomon".

Robert E. Solomon, P.E.
Assistant Vice President
Building and Life Safety Codes

RES/jtm

C: J. Biechman
R. Côté
L. Richardson

Enclosure: NFPA Comments – RIN 0938–AN36
CMS-3145-IFC

NFPA COMMENTS ON RIN 0938-AN36

File Code CMS-3145-IFC

SECTION I. Background

A. Alcohol-Based Hand Rubs (ABHR)

1. ABHR RESEARCH

No Comments

2. ABHR SAFETY

P.15231. The abbreviation TIA stands for Tentative Interim Amendment rather than Temporary.

P.15231. The paragraph under the ASC discussion needs to be revised as follows:

“...; but are rather covered under Chapter 20 (new construction) and Chapter 21 (existing construction) of the LSC.”

P.15231. Did the department explicitly clarify that the minimum 6 ft. wide corridor be present in ASC's? The minimum corridor width was deemed to be a key issue with respect to the impact of a fire involving the ABHR dispensers. ASC minimum corridor widths are 44 inches. This would make the CMS criteria consistent with the changes proposed for Ambulatory Health Care Occupancies in the next edition of NFPA 101.

B. Smoke Detectors

1. P.15231. The statements in the 2nd and 4th paragraphs relating to “...lack of smoke detectors.... delays in staff response... and awareness by staff...” contradict nursing staff statements in the case of the Hartford fire. The resident accused of setting the fire actually summoned the nurse to the room of origin prior to any smoke reaching the corridor.

2. P.15232. There is no evidence of a delayed staff response in the case of the Hartford fire.

3. P.15232. The proposed rule indicates that detectors will be installed in “...resident sleeping rooms and public areas.” The rule needs to be very precise in three specific areas as follows:

- A. Is the intent to install smoke alarms, smoke detectors or some combination thereof? Single smoke alarms are designed to sound only a local alarm that would be heard in the vicinity of the room where it is installed. Multiple station smoke alarms are capable of being interconnected to other smoke alarms so that actuation of one causes the alarm signal in all interconnected smoke alarms to occur. A smoke detector on the other hand is part of a fire alarm system and is designed to sound a general building fire alarm signal that would, among other things, alert occupants of the entire building and summon the fire department. The phrase "hardwired smoke detector system" should be replaced with system-based smoke detectors". If the intent is to install smoke alarms in resident rooms and smoke detectors in other areas, such as corridors, that needs to be explicitly stated.
- B. The rule makes reference to "Public Areas".

This term is not defined in NFPA 101 nor is it defined in the rule. Presumably, a public area might include a corridor, cafeteria, waiting room, lobby area (main entrance, elevator), conference room, physical therapy room or administrative area among others. Neither the GAO report or previous discussions on the subject within the NFPA Safety to Life project raised the spectre of smoke detectors/smoke alarms in areas beyond the resident rooms and the corridors that directly serve those resident rooms.

Given the impending and likely regulation for mandatory automatic sprinkler system installations in all existing nursing care facilities, NFPA recommends the following for this proposed rule assuming interconnected smoke alarms are not what you are seeking:

- " - Single station smoke alarms shall be installed in all resident sleeping and treatment rooms
- System-based smoke detectors shall be installed in all corridors that directly serve the resident sleeping and treatment rooms.
- The installation of both smoke alarms and system-based smoke detectors shall meet the requirement of NFPA 72. *National Fire Alarm Code.*"

- C. The description of the function of the detectors is not correct. The statement "... from a facility's electrical system and uses batteries as backups in the case of a power failure." Is not true. The fire alarm control panel (FACP) is equipped with a redundant power supply, which may include a battery. The smoke detectors are typically not provided with a battery. In addition, the section also describes an "interconnection" feature that is commonly used with household fire warning equipment (that is, with a dwelling unit) but that is not appropriate to utilize in the facilities described. If the intent was to specify a system whereby activation of a smoke detector activated the building fire alarm system, that needs to be clarified in the final version of the rule.

SECTION II. Provisions of the Interim Final Rule

A. Alcohol-Based Hand Rubs

PLACEMENT REQUIREMENTS

1. P.15231. NFPA disagrees with the provision relating to the "... conflict with any state or local codes...". It would appear that CMS is simply deferring to what a state or local health regulator might want to do. It is our understanding that the infection control regulators at HHS support the conclusions of the CDC that emphasized both the visibility and convenience aspect of the placement of the ABHR dispensers. Taking steps to lessen those aspects, as is proposed here appears contrary to those conclusions and findings. NFPA 101 and now the CMS regulation will be the only two national regulatory instruments to govern this subject. The NFPA Technical Committee on Healthcare Occupancies thought through the ramifications of ABHR dispensers from the use, fire safety and potential encroachment standpoint.

NFPA did not specifically study the ABHR placement issues from a "slip/fall" hazard scenario or from the potential misuse of the product as discussed in this Section. NFPA agrees that those are legitimate concerns and it is appropriate for the final/interim rule to provide guidance on this area.

B. Smoke Detectors

LOCATION

1. P.15233. Our previous comments from P. 15232 concerning terminology (smoke alarms/smoke detectors) and reference to public areas also apply here.

In addition, the intent of the rule is somewhat unclear as to what purpose the battery operated smoke alarms will serve. Since they have a one-year phase in period, is the intent that they be an interim or stop gap measure that can be abandoned once a fully compliant NFPA 72 fire alarm system, with some combination of detectors is installed? Unless the intent of the rule was to force use of wireless fire alarm technology, the terminology needs to be revised to consider battery operated smoke "alarms".

Once the intent of the rule is clear, appropriate steps to clearly layout the type of device, location of the device and inspection protocols of the device have to be established. NFPA offers the following for consideration.

DEFINITIONS:

DETECTOR:	A device suitable for connection to a circuit that has a sensor that responds to a physical stimulus such as heat or smoke. (NFPA 72: 3.3.43)
SMOKE DETECTOR:	A device that detects visible or invisible particles of combustion. (NFPA 72: 3.3.43.17)
FIRE ALARM SYSTEM	A system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of fire alarm or supervisory signal initiating devices and to initiate the appropriate response to those signals. (NFPA 72:3.3.67)
SMOKE ALARM:	A single or multiple station alarm responsive to smoke. (NFPA 72: 3.3.179)
SINGLE STATION ALARM:	A detector comprising an assembly that incorporates a sensor, control components, and an alarm notification appliance in one unit operated from a power source either located in the unit or obtained at the point of installation. (NFPA 72: 3.3.175)
MULTIPLE STATION ALARM:	A single station alarm capable of being interconnected to one or more additional alarms so that the actuation of one causes the appropriate alarm signal to operate in all interconnected alarms.(NFPA 72: 3.3.104)

MAINTENANCE

1. P.15233. The extent of the inspection, testing and maintenance program needs to be clearly established. Inspection, testing and maintenance programs for smoke alarms and smoke detectors entail a range of rather frequent observations, as much as monthly when it comes to battery operated smoke alarms.

EXCEPTIONS

1. P.15233. It is recommended that the criteria for the sprinkler exception contain explicit guidance on the type of system. Other wise, some facilities may try and take credit for partial or localized systems. The Section should be revised as follows:

“...and one for facilities that have sprinkler systems that meet the requirements of NFPA 13, *Standard for the Installation of Sprinkler Systems.*”

2. P.15233. How will CMS judge a facility to be compliant based upon detectors being provided in “...resident rooms and public areas...”. See our comments for Item B on P. 15232.

SECTION VI. Regulatory Impact Statement

B. Anticipated Effects

1. P.15235 Alcohol Based Hand Rubs. As written, the third paragraph seems to allow existing, non-conforming ABHR installations to remain in use even if they do not meet the new rules. Was that the actual intent of this provision or was it simply to permit ABHRs installed in resident rooms to remain without modification? NFPA has anecdotal information that some facilities have been installing ABHRs in corridors prior to issuance of the TIAs to NFPA 101. It is not known if these installations would indeed meet the criteria of either NFPA 101 or of this interim/final rule.

C. Alternatives Considered

2. P.15236 Smoke Detectors.

1. NFPA recommends and urges CMS to proceed with proposed rule making with respect to the retroactive automatic sprinkler concept discussed in the 6th paragraph of this Section. While a cost impact will be evident, there is nothing to be gained by waiting. This recommendation should be accompanied by some phase in/implementation period (3 year, 5 year, other) and should clearly and concisely seek the mandate.

As a point of information, the 2006 edition of NFPA 101 is slated to require the installation of automatic sprinkler systems in all existing nursing homes. The provisions will receive a final review by the NFPA membership in June of 2005, be issued by the NFPA Standards Council in July of 2005 and appear in the new code in September of 2005. Major constituency groups such as the American Healthcare Association, International Fire Marshals Association and CMS staff have supported this proposed change for the 2006 edition of NFPA 101.

**CMS-3145-IFC-11 Fire Safety Requirements for Certain Health Care Facilities;
Alcohol-Based Hand Sanitizer Amendment**

Submitter : Mr. Hal Daub

Date & Time: 05/24/2005

Organization : American Health Care Association

Category : Health Care Professional or Association

Issue Areas/Comments

GENERAL

GENERAL

"See Attachment"

CMS-3145-IFC-11-Attach-1.DOC



American Health Care Association

1201 L Street, NW, Washington, DC 20005-4014

Main Telephone: 202-842-4444

Main Fax: 202-842-3860 2nd Main Fax: 202-289-4253

Writer's Telephone: 202-842-4444

Writer's E-Mail: lbentley@ahca.org

www.ahca.org

May 6, 2005

Steven Chies
CHAIR

Benedictine Health Systems
Cambridge, MN

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Hal Daub
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Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS – 3145-IFC
P.O. Box 8018
Baltimore, MD 22144-8018

Dear Sir/Madam:

This letter is submitted on behalf of the American Health Care Association (AHCA). AHCA is a non-profit federation of affiliated state health organizations, together representing nearly 11,000 non-profit and for-profit nursing facilities, developmentally-disabled, and subacute care providers that care for more than 1.5 million elderly and disabled individuals nationally. We are pleased to have the opportunity to provide comments on the Centers for Medicare & Medicaid Services (CMS) interim final rule: **Medicare and Medicaid Programs; Fire Safety Requirements for Certain Health Care Facilities; Amendment**, published in the March 25, 2005 *Federal Register*. Both aspects of the rule will affect AHCA members. Therefore, AHCA's comments are directed toward the *Alcohol Based Hand Rub* (ABHR) provisions and the *Smoke Detector* provisions.

- All certified skilled nursing facility (SNF) and nursing facility (NF) members of AHCA that choose to mount ABHR containers in egress corridors will be required to comply with the ABHR provisions in the rule under the new requirements of participation at 483.70(a)(6).
- All certified intermediate care facilities for the mentally retarded (ICFs/MR) members of AHCA that choose to mount ABHR containers in egress corridors will be required to comply with the ABHR provisions under revised conditions of participation at 483.70(j)(7).
- AHCA SNF and NF member facilities that currently are not fully sprinklered will be required to install smoke detectors according to the requirements of the rule.

THE AMERICAN HEALTH CARE ASSOCIATION IS COMMITTED TO PERFORMANCE EXCELLENCE AND QUALITY FIRST, A COVENANT FOR HEALTHY, AFFORDABLE AND ETHICAL LONG TERM CARE. AHCA REPRESENTS MORE THAN 10,000 NON-PROFIT AND FOR-PROFIT PROVIDERS DEDICATED TO CONTINUOUS IMPROVEMENT IN THE DELIVERY OF PROFESSIONAL AND COMPASSIONATE CARE FOR OUR NATION'S FRAIL, ELDERLY AND DISABLED CITIZENS WHO LIVE IN NURSING FACILITIES, ASSISTED LIVING RESIDENCES, SUBACUTE CENTERS AND HOMES FOR PERSONS WITH MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES.

General Comments

AHCA supports the increased availability of alcohol based hand rubs (AHBRs). AHCA was a very strong advocate of the National Fire Protection Association amendment that led to the CMS interim final rule, based in part on compelling infection control evidence, absence of fires related to these dispensers and recognition that accessibility to the containers leads to improved hand sanitizing. AHCA agrees with the CMS statement in the preamble on page 15234, "Any fire safety concerns, are, we believe, more than offset by the potential for health care facilities to improve their infection control practices."

AHCA supports the installation of smoke detectors in patient rooms and large common areas in unsprinklered facilities. However, there is a cost associated with this and we request the assistance of CMS in creating a grant or loan process to aid facilities in the installation of smoke detectors.

Comments on Specific Provisions of the Interim Final Rule

A. Alcohol Based Hand Rubs

PLACEMENT REQUIREMENTS

Page 15238, Subpart B - Requirements for Long Term Care Facilities

483.70(a)(6)(ii) The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls

Concern: The Regulation goes beyond the requirements of the National Fire Protection Association's Technical Interim Amendment by adding language on preventing and dealing with leakage and spills to prevent slippage accidents. While this directive addresses a necessary component of safety, it does not require new regulation. Existing regulations governing accidents at 42 CFR 483.25(h)(1), *The residents environment remains as free of accident hazards as is possible*, sufficiently address accidents caused by a variety of sources. More importantly, AHCA questions whether the installation would prevent leaks and spills. Rather, the design of the container would more likely accomplish this objective.

Recommendation: Delete this section.

483.70(a)(6)(iii) The dispensers are installed in a manner that adequately protects against access by vulnerable populations;

Concern: The term "vulnerable populations" is undefined and too general for inclusion in regulations that apply to nursing homes at 483.70. Lack of specificity could encourage surveyors to make subjective decisions about residents at risk and consequently about facilities' compliance with this rule. The clinical judgment of the facilities' professional staff should determine residents' risk.

Recommendation: Change last line to: access by residents who are vulnerable as determined by the judgment of the facility's clinical staff.

Page 15238, Subpart B - Conditions of Participation for Intermediate Care Facilities for the Mentally Retarded-

483.470(i)(7) Condition of participation: Physical environment

(ii)(B) The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls:

Concern: The Regulation goes beyond the requirements of the National Fire Protection Association's Technical Interim Amendment by adding language on preventing and dealing with leakage and spills to prevent slippage accidents. While this directive addresses a necessary component of safety, it does not require new regulation. More importantly, AHCA questions whether the installation would prevent leaks and spills. Rather, the design of the container would more likely accomplish this objective.

Recommendation: Delete this section.

(ii)(C) The dispensers are installed in a manner that adequately protects against access by vulnerable populations

Concern: The term "vulnerable populations" is undefined and too general for inclusion in regulations that apply to ICFs/MR at 483.470. Lack of specificity could encourage surveyors to make subjective decisions about clients at risk and consequently about facilities' compliance with this rule. The clinical judgment of the facilities' professional staff should determine residents' risk.

Recommendation: Change last line to: "access by clients who are vulnerable as determined by the judgment of the ICF/MR's clinical staff."

B. Smoke Detectors

LOCATION

Page 15238, Subpart B - Requirements for Long Term Care Facilities

483.70 Physical environment

(a)(7)(i) Install battery-operated smoke detectors in resident sleeping rooms and public areas by May 245, 2006.

Concerns:

1. The rule requires smoke detectors in resident sleeping rooms and (emphasis added) public areas. Data on multiple death fires in nursing homes since 1972 show that there has never been a multiple death fire that originated outside the resident sleeping compartment.

Recommendation: Delete "public areas." Require smoke detectors only in patient sleeping areas. Leave as written.

2. The term "public areas" is not defined in the LSC or, to the best of our knowledge, in any other nationally recognized code or standard.

Recommendation: AHCA believes that definition of areas other than sleeping rooms, corridors and spaces open to the corridors should be part of interpretive guidance rather than regulation. If CMS incorporates into the final rule the concept of a place where residents gather outside of their rooms, the term "common areas" should be used. In the CMS Survey and Certification letter, S&C-05-26 dated April 14, 2005, which explains the new requirement

for full sprinklering an additional time period of 180 days (after 5/24/06) to be in compliance with this rule.

Page 15238, Subpart B - Conditions of Participation for Intermediate Care Facilities for the Mentally Retarded-

483.470(j)(7) Condition of participation: Physical environment

(ii)(B) The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls:

Concern: The Regulation goes beyond the requirements of the National Fire Protection Association's Technical Interim Amendment by adding language on preventing and dealing with leakage and spills to prevent slippage accidents. While this directive addresses a necessary component of safety, it does not require new regulation. More importantly, AHCA questions whether the installation would prevent leaks and spills. Rather, the design of the container would more likely accomplish this objective.

Recommendation: Delete this section.

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Concern: The term "vulnerable populations" is undefined and too general for inclusion in regulations that apply to ICFs/MR at 483.470. Lack of specificity could encourage surveyors to make subjective decisions about clients at risk and consequently about facilities' compliance with this rule. The clinical judgment of the facilities' professional staff should determine residents' risk.

Recommendation: Change last line to: "access by clients who are vulnerable as determined by the judgment of the ICF/MR's clinical staff."

B. Smoke Detectors

LOCATION

Page 15238, Subpart B - Requirements for Long Term Care Facilities

483.70 Physical environment

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Concerns:

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Recommendation: Delete "public areas." Require smoke detectors only in patient sleeping areas. Leave as written.

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Recommendation: AHCA believes that definition of areas other than sleeping rooms, corridors and spaces open to the corridors should be part of interpretive guidance rather than regulation. If CMS incorporates into the final rule the concept of a place where residents gather outside of their rooms, the term "common areas" should be used. In the CMS Survey and Certification letter, S&C-05-26 dated April 14, 2005, which explains the new requirement

for battery-operated smoke detectors, CMS provides a functional definition of common areas: dining, activity and other meeting rooms where residents gather on a regular basis.

CMS Inquiry about requiring smoke detectors in places other than resident rooms and "public areas"

Recommendation: Do not expand the requirement to include additional areas. Data on multiple death fires in nursing homes since 1972 show that there has never been a multiple death fire that originated outside the resident sleeping compartment.

Page 15238, Subpart B - Requirements for Long Term Care Facilities
483.70 Physical environment

EXCEPTIONS

(a)(7)(iii)(A) Exception: The facility has a hard-wired smoke detection system ...

Concerns:

1. The interim final rule allows battery operated, single station detectors (detectors that cause alarms to sound only at the detector which senses the smoke) and does not require that the detectors sound the building alarm system. The rule goes on to state that if States' rules require hard-wired detectors and/or require detectors to sound the building fire alarm system, the facility is required to comply with the more restrictive local rules. The preamble commentary makes an incorrect assumption that all hard-wired smoke detectors, must be connected to the building fire alarm system. This is redundant and unnecessary. The final rule should not prohibit a facility from installing hard-wired, single station smoke detectors in lieu of battery smoke detectors that the facility will not have to connect to the fire alarm system or sound a general fire alarm signal.

Recommendation: Clarify in the final rule to states that hard-wired, single station smoke detectors that are not connected to the fire alarm system are allowed if current State rules permit. This would provide the same or higher level of safety as battery operated single station smoke detectors..

2. The regulation is not clear as to whether battery and hard-wired smoke detectors can both be used in the same facility. For example, a facility may have existing hard-wired smoke detectors in the corridors, regardless if they are connected to the fire alarm system or not, the facility may want to install new battery operated smoke detectors only in the patient rooms and public areas not currently protected with smoke detectors.

Recommendation: Clarify that hard-wired and battery operated smoke detectors may be installed. Delete the language that suggests that if a facility installs a hard-wired system, the system has to be connected to the alarm system.

3. No exception is made for facilities that have started, but not completed, the lengthy process that would lead to full sprinklering. For example, a facility may have a signed contract and obtained funding for installation of an automatic sprinkler system as of May 24, 2006. Under the provisions of the interim final rule, the facility would have to install battery-operated smoke detectors, regardless of plans to install an automatic sprinkler system.

Recommendation: Insert language to allow facilities that have contracts and funding in place for full sprinklering an additional time period of 180 days (after 5/24/06) to be in compliance with this rule.

4. No provision is allowed in this rule for eliminating redundant requirements if a facility that is not fully sprinklered installs smoke detectors to meet the requirements of this rule but later becomes fully sprinklered. The LSC is clear that facilities do not have to maintain existing features that exceed the requirements for new buildings. If an exception is not made for these facilities, they will be required to meet higher standards than required of new facilities.
Recommendation: Insert language to allow removal of battery-operated smoke detectors from facilities that become fully sprinklered after installing the smoke detectors to meet the requirements of this rule.
5. The regulation does not indicate which edition of NFPA 72 is referenced.
Recommendation: Specify that installation of smoke detectors in accordance with this regulation requires conformance with the 1999 edition of NFPA 72, which is the reference document for the 2000 edition of LSC.

Page 15239, Subpart B - Requirements for Long Term Care Facilities

483.70 Physical environment, cont.

(a)(7)(iii)(B) Exception: The facility has a sprinkler system throughout the facility that is installed, tested, and maintained in accordance with NFPA 13, *Automatic Sprinklers*.

Concern: The term "throughout the facility" is not defined or further described. Lack of either a definition or further description would encourage surveyors to make inconsistent subjective decisions about facilities' compliance. On page 2 of the CMS Survey and Certification letter, S&C-05-26 dated April 14, 2005 describing the new requirement for battery-operated smoke detectors, CMS states, "A fully sprinklered nursing home is one that has all areas sprinklered in accordance with the National Fire Protection Association (NFPA) 13 Standard for the Installation of Sprinkler Systems: without the use of waivers or the Fire Safety Evaluation System (FSES)."
Recommendation: Use one term, either "fully sprinklered" or "throughout the facility," and define the term. If CMS intends for the S&C statement to be the definition, insert similar language into the final rule.

Sincerely,



Hal Daub
President and CEO

Submitter :

Date: 05/24/2005

Organization :

Category : Private Industry

Issue Areas/Comments

GENERAL

GENERAL

See Attachment

CMS-3145-IFC-12-Attach-1.DOC



Setting the Standard for Building Safety™

Headquarters

5203 Leesburg Pike, Suite 600 ■ Falls Church, VA 22041-3405 U.S.A.
Tel: +1 (703) 931-4533 ■ Fax: +1 (703) 379-1546

www.iccsafe.org

May 24, 2005

Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-3145-IFC
PO Box 8018
Baltimore, MD 21244-8018

Subject: Comments Interim Final Rule RIN 0938-AN36
(70 Federal Register 15229 et. sec., March 25, 2005)

To whom it may concern:

The International Code Council[®] (ICC[®]) submits the attached comments regarding the interim final rule issued by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (70 Fed Reg 15229) to adopt the temporary interim amendment for Alcohol Based Hand Rub Solutions as published by the National Fire Protection Association (NFPA), as well as the new smoke detector installation requirements for nursing homes.

The ICC is a 35,000 + member association dedicated to building safety and fire prevention, whose mission is to provide the highest quality codes, standards, products, and services for all concerned with the safety and performance of the built environment.

The codes developed under the auspices of the ICC serve as a baseline for the design, construction, operation and maintenance of the majority of both public and private sector buildings in the U.S. As such the codes developed by the ICC (I-Codes[®]), are readily recognized and understood by building owners, product manufacturers, designers, contractors, code officials and all others involved in building design, construction, approval, and operation. The majority of U.S. state and local government agencies that adopt codes adopt and implement building safety and fire prevention codes developed by the ICC. In addition most federal agencies have building construction policies that require the use of the I-Codes or those policies refer to the state or local code proximate to the federal facility.

The ICC appreciates the opportunity to provide comments. Should additional information be needed please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink that reads "Sara C. Yerkes". The signature is written in a cursive, flowing style.

Sara C. Yerkes
Senior Vice President of Government Relations
International Code Council
Enclosure

Comments on "ABHR Safety"

ICC supports the HHS Centers for Medicare and Medicaid amendment which allows placement of Alcohol Based Hand Rub (ABHR) dispensers in egress corridors. A similar change to the International Fire Code[®] (IFC[®]) to allow ABHR dispensers in egress corridors in accordance with certain provisions was advanced to the final stage of consideration in ICC's Governmental Consensus Process. Notable provisions in this code change proposal include:

- Use is limited to nonaerosol products
- Dispenser placement is limited to corridors that are at least 6 feet wide
- Dispenser placement is prohibited over carpet – except in fully sprinklered locations
- Dispenser placement is prohibited directly adjacent to, directly above or below an electrical receptacle, switch, appliance, device or other ignition source.

The code change has been recommended for approval by the IFC Development Committee; and will be presented for final approval by the membership during the September code hearings. If approved, section 3405.5 of the 2006 IFC would read:

3405.5 Alcohol-based hand rubs classified as Class I or Class II liquids. The use in corridors of wall-mounted dispensers containing nonaerosol, alcohol-based hand rubs classified as Class I or Class II liquids shall be in accordance with all of the following:

1. The minimum corridor width shall be 72 inches (1829 mm).
2. The maximum capacity of each dispenser shall be 41 ounces (1.2 L).
3. The minimum separation between dispensers shall be 48 inches (1219 mm).
4. The dispensers shall not be installed directly adjacent to, directly above or below an electrical receptacle, switch, appliance, device or other ignition source. The wall space between the dispenser and the floor shall remain clear and unobstructed.
5. Dispensers shall be mounted so that the bottom of the dispenser is a minimum of 42 inches (1067 mm) and a maximum of 48 inches (1219 mm) above finished floor.
6. Dispensers shall not release their contents except when the dispenser is manually activated.
7. Dispensers installed in occupancies with carpeted corridors shall only be allowed in smoke compartments or fire areas equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.
8. Projections into a corridor shall be in accordance with Section 1003.3.3.
9. Storage of alcohol-based hand rubs shall be in accordance with the applicable provisions of Section 3404.

In the early fall of 2003, the American Hospital Association (AHA) approached the International Code Council regarding the safety issues related to the use of (ABHR) products in health care occupancies. Specifically, the AHA was concerned that the fire code has prohibited the installation of the dispensers in corridors. The ICC Board of Directors appointed an ad hoc committee with broad representation to address the issue and develop appropriate code change recommendations. The committee's goal was to provide a means for ICC to avoid the building and fire codes being utilized as a barrier to infection control while maintaining an appropriate level of safety. The committee consisted of eight building and fire officials and four industry representatives. The code change presented above is the culmination of those efforts.

Comments on "Location" of smoke detectors

The ICC agrees with the HHS Centers for Medicare and Medicaid assessment that smoke alarms¹ located in patient rooms are necessary fire safety measures when fire sprinkler systems are not present.

ICC believes that the notification of the nursing station attendant in the event that smoke or fire is detected is an essential component for nursing home safety. The International Fire Code requires that every nursing home patient room be equipped with at least one fire sprinkler head. (IFC 903.2.5) In the event one of these sprinklers is triggered, the building alarm system is activated to alert the nursing station.

ICC is concerned that battery operated smoke alarms, the minimum requirement of this HHS Centers for Medicare and Medicaid interim final rule, do not have the notification capabilities discussed above. A simple battery operated smoke alarm may not be immediately noticed by nursing staff working in another area of the nursing home. This could pose a safety risk should the alarm fail to be noticed in the first critical minutes after a fire begins.

While addressing a basic smoke alarm requirement, HHS Centers for Medicare and Medicaid may also wish to encourage or require more advanced and readily available dual sensor smoke alarms. A dual sensor alarm has both a photoelectric sensor to quickly detect slow burning smoldering fire as well as an ionization sensor to quickly detect fast flaming fires. Because it is nearly impossible to predict what type of fire could start in a patient room, installing one alarm with both sensors can enhance fire safety with only a small increase in cost.

Comments on "1 year phase-in"

If these facilities are not sprinklered as per IFC 903.2.5, then it is imperative that smoke alarms be installed in nursing home patient rooms as soon as possible. While recognizing a need for phased in compliance time, ICC believes that one year for installation compliance for this minimum measure is unnecessarily long. Nursing homes should be required to install, at a minimum, battery operated smoke alarms in patient rooms without sprinklers within a reasonably short interval following enactment of this regulation (ie. 90 days). Understandably, upgrades in the facility, such as hard-wired systems and/or fire sprinklers systems, may take up to a year for installation purposes. Battery-operated alarms, however, are inexpensive and can be purchased and installed in a short amount of time.

General comments on regulation change

The ICC is concerned that the existing set of fire code rules used and enforced by HHS Centers for Medicare and Medicaid do not fully address the fire safety needs of such a vulnerable population. The IFC currently requires nursing homes to utilize fire sprinkler systems that reach every patient room with smoke detectors as an optional additional layer of protection. ICC encourages HHS Centers for Medicare and Medicaid to implement the basic regulations in this interim final rule to protect the residents of nursing homes not currently protected by those jurisdictions enforcing the IFC. Further, ICC would encourage HHS Centers for Medicare and Medicaid to incorporate the IFC into their regulations for additional protection of nursing home patients.

¹ Please note that a correction needs to be addressed in this Federal Register notice. The battery operated devices discussed by HHS Centers for Medicare and Medicaid are actually smoke *alarms* because they are combined detection and notification devices. Smoke *detectors* simply detect smoke and use another device in the system to sound an alert.

**CMS-3145-IFC-13 Fire Safety Requirements for Certain Health Care Facilities;
Alcohol-Based Hand Sanitizer Amendment**

Submitter : Mr. James Burns

Date & Time: 05/24/2005

Organization : National Association of State Fire Marshals

Category : Other Association

Issue Areas/Comments

GENERAL

GENERAL

See attachment.

CMS-3145-IFC-13-Attach-1.PDF



NATIONAL ASSOCIATION OF STATE FIRE MARSHALS
Executive Committee

May 24, 2005

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attn: CMS-3145-IFC
PO Box 8018
Baltimore, MD 21244-8018

RE: Comment of the National Association of State Fire Marshals on interim final rule regarding alcohol-based hand rub dispensers.

The National Association of State Fire Marshals (NASFM) membership comprises the senior state fire officials in the United States. State Fire Marshals' responsibilities vary from state to state, but Marshals tend to be responsible for fire safety code adoption and enforcement, fire and arson investigation, fire incident data reporting and analysis, public education and advising Governors and State Legislatures on fire protection. Some State Fire Marshals are responsible for fire fighter training, hazardous materials incident responses, wildland fires and the regulation of natural gas and other pipelines. Because of the breadth of their responsibilities, NASFM members are public safety officials, not just fire protection officials.

NASFM has reviewed the National Fire Protection Association's (NFPA) tentative interim agreement (TIA) 00-1 (101) that would allow alcohol-based hand rub (ABHR) dispensers to be placed in exit corridors of certain health care facilities, as well as the Centers for Medicare and Medicaid Services' proposed implementation of the TIA. While NASFM is certainly concerned with the statistics regarding health care acquired infections, and agrees that ABHR products are an effective way to reduce such infections, we continue to be concerned that allowing flammable solutions in exit corridors violates fundamental concepts of fire and life safety and sets a dangerous precedent for allowing similarly flammable solutions to be placed in exit corridors. Therefore, NASFM wishes to be on record as opposing the decision of the US Department of Health and Human Services (HHS) to adopt TIA 00-1 (101) and encourages the Department to seek alternatives for addressing this crucial health problem in ways that would not pose fire safety hazards.

ABHR RESEARCH and ABHR SAFETY

Because some health care professionals have questioned whether fire safety officials care about reducing infections acquired in health care facilities, NASFM wishes to state without qualification that alcohol-based hand rubs and similar solutions intended to reduce bacteria on the hands of health care workers are important, effective means of preventing infection and saving lives. Further, NASFM agrees that dispensers containing these solutions should be accessible to health care workers. As NASFM's previous guidance to members on this issue states, "The issue is not whether these products should be used, but how they can be used safely."

The practice of installing ABHR dispensers has been acknowledged as a shift from the existing code requirements. NASFM disagrees with the statement in the Federal Register notice of March 25 (under the subhead IV. Waiver of Proposed Rulemaking) that "although ABHR dispensers were once considered to be a fire safety risk when placed in egress corridors, they are no longer considered by fire safety experts to pose a significant risk to patient safety." While there is clearly disagreement among fire safety officials on this question, NASFM considers the practices allowed by the TIA and HHS interim final rule to represent a potentially significant increased risk.

NASFM disagrees with the assumption that exit (egress) corridors must be included in the list of allowable "accessible" areas for any flammable product. Exit corridors are the primary means of escape during a fire. The integrity of exit corridors has long been a cornerstone in the design and maintenance of evacuation routes and safe havens. These areas have been addressed in the codes as places building occupants can be protected, feel safe, and allow for an unimpeded escape.

The introduction of flammable liquids to this "protected" environment in the quantities allowed by the TIA appears to be contrary to everything fire safety officials know about protecting exit corridors. In health care facilities in particular, where many of the occupants are ill, immobile or otherwise impeded in their ability to escape in the event of an emergency, the protection of exit corridors must never be compromised.

The TIA does not address maintenance or the consequences of improper installation and use, or intentional acts. With limited staffing and higher patient-worker ratios these devices can, and will, become troublesome over time. This, coupled with the allowed storage and use quantities, represent the components for disaster. Health care facilities have enjoyed a relatively low rate of fire death and injuries due, in large part, to the existing code requirements. Compliance with the existing code has provided a history of performance that should not be altered.

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attn: CMS-3145-IFC
Page 3

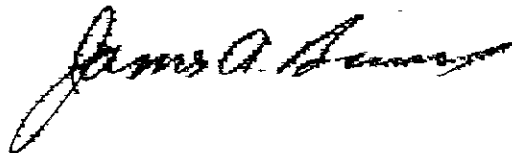
Moreover, NASFM is concerned that this exception for one product opens the door to allowing other products with similar or greater flammability risks to be placed in exit corridors. The fact that there are products on the market that perform the same function as ABHRs but without the use of alcohol or other flammable ingredients should make this TIA unnecessary.

NASFM does applaud HHS for addressing issues beyond those covered in the TIA, such as requiring that dispensers not be accessible by vulnerable populations who may misuse the ABHR solution or use it to start fires. Additionally, NASFM agrees with the HHS provision that states and local jurisdictions may choose to retain stricter codes that prohibit or otherwise restrict the installation of ABHR dispensers in health care facilities.

NASFM agrees that more must be done to curb the rate of health care acquired infections and has offered in the past to participate in a solution-seeking process. We must, however, discourage and oppose any attempts to knowingly increase one risk while attempting to reduce another. The greater good can be served by cooperation among stakeholders. All options must be explored before casting aside the longstanding fundamental concepts of fire safety.

Therefore, the National Association of State Fire Marshals wishes to be on record opposing the HHS Centers for Medicare & Medicaid Services proposal to adopt the NFPA interim temporary amendment 00-1 amending the 2000 Edition of the Life Safety Code.

Sincerely,



James A. Burns
President

cc: NASFM membership
Science Advisory Committee